

## Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 SSO-00 NSCE-00 INRE-00 SS-15

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FM AMEMBASSY BUCHAREST

TO SECSTATE WAHSDC IMMEDIATE 1332

CONFIDENTIAL SECTION 1 OF 2 BUCHAREST 0054

E.O. 11652: GDS

TAGS: EEW, RO

SUBJ: TRADE AGREEMENT NEGOTIATIONS

REF: A. BUCHAREST 0043; B. STATE 001901; C. BUCHAREST 0011

1. SUMMARY: EMBASSY PRESENTED REMAINING PORTIONS OF US DRAFT AND DISCUSSED COMPOSITION OF NEGOTIATING TEAMS AND USE OF US DRAFT AS BASIS FOR NEGOTIATIONS. THIS MESSAGE ALSO TRANSMITS EMBASSY AND ROMANIAN COMMENTS ON MAJOR POINTS OF DIFFERENCE BETWEEN DRAFTS, ARISING FROM INFORMAL DISCUSSIONS TO DATE. END SUMMARY

2. EMBOFFS MET WITH DIRECTOR GENERAL DUMITRESCU OF MINISTRY OF FOREIGN TRADE (MFT), MFT US DESK OFFICER AND REPRESENTATIVE OF MINISTRY OF EXTERNAL AFFAIRS JANUARY 7 TO PRESENT REMAINING PORTIONS OF US DRAFT TRADE AGREEMENT (REFTEL B). IN RESPONSE TO QUESTION, DUMITRESCU SAID ROMANIANS WERE WILLING TO WORK FROM US DRAFT TEXT, SINCE IT INCLUDES MOST SUBJECTS MENTIONED IN ROMANIAN DRAFT. WHERE US STIPULATIONS ARE MORE DETAILED, AND ROMANIANS HAVE NO OBJECTIONS, THEY ARE INCLINED TO ACCEPT LONGER US VERSION (EXCEPT WHERE IT INVOLVES REPEATING MULTILATERAL OBLIGATIONS IN BILATERAL CONTEXT).

3. FOLLOWING ARE MAJOR PROBLEM AREAS ARISING FROM INFORMAL  
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DISCUSSIONS TO DATE, WITH BOTH ROMANIAN AND EMBASSY COMMENTS.

A. PERIOD OF VALIDITY OF MFN. ROMANIANS HAVE REPEATEDLY EXPRESSED UNHAPPINESS AT PROSPECT OF HAVING TO PLAN EXPORTS WITHOUT FIRM US COMMITMENT THAT ROMANIA WILL CONTINUE TO ENJOY MFN STATUS. THEY HAVE ARGUED THAT OUR ARTICLE XII:2 IMPLIES US CAN SUSPEND MFN AT ANY TIME WITHOUT ADVANCE NOTICE. DUMITRESCU EXPRESSED PREFERENCE FOR MORE SPECIFIC LANGUAGE, PERHAPS CLOSELY MATCHING PROVISIONS OF 1974 TRADE ACT, WHICH WOULD SPELL OUT PERIOD FOR WHICH MFN BEING IRREVOCABLY GRANTED AND CONDITIONS FOR ITS EXTENSION. OUR IMPRESSION IS THAT OFFICIAL ROMANIAN NEGOTIATING TEAM WILL ALSO PICK UP THIS POINT, AND IT MIGHT BE WELL TO HAVE AN ALTERNATIVE, MORE DETAILED STATEMENT OF OUR MFN COMMITMENT ON HAND BEFORE THE START OF NEGOTIATIONS.

B. BUSINESS FACILITATION. PROGRESS HAS BEEN MADE IN THAT DUMITRESCU SEEMS TO HAVE TACITLY ACCEDED LK OUR DESIRE TO INCLUDE A SECTION ON BUSINESS FACILITATION IN THE PUBLISHED AGREEMENT, RATHER THAN MAKING THIS THE SUBJECT OF A "PRIVATE" AGREEMENT, AS HE INITIALLY SUGGESTED. MAJOR DIFFICULTY POSED BY ROMANIANS IS THAT SOME ITEMS, SUCH AS FEES AND CHARGES, RENTS, HIRING PRACTICES AND SALARIES, ARE COVERED BY EXISTING ROMANIAN LAW, WHICH DUMITRESCU CLAIMS CANNOT BE CHANGED BY BILATERAL AGREEMENT. WE CONTINUE TO BELIEVE THAT TRADE AGREEMENT NEGOTIATIONS CAN PROVIDE OCCASION FOR SOME MODIFICATION OR AT LEAST MORE FAVORABLE INTERPRETATION OF EXISTING REGULATIONS. EMBASSY SUGGESTION IS TO TREAT THIS SECTION (OUR ARTICLE IV AND ANNEX 2) AS A WHOLE, RATHER THAN ATTEMPTING TO ESTABLISH RECIPROCITY ON EACH POINT. ON SOME ITEMS, SUCH AS DUTY-FREE IMPORT PRIVILEGES, FULL RECIPROCITY MIGHT BE EITHER IMPOSSIBLE OR INAPPROPRIATE. WE COULD, HOWEVER, PRESS FOR A FAIR BALANCE ON ALL ITEMS TAKEN TOGETHER, SO THAT WHAT WE MAY HAVE TO GIVE UP ON SOME (SUCH AS DUTY-FREE PRIVILEGES) WE GAIN ON OTHERS (SUCH AS HOUSING OR HIRING PRACTICES).

C. NATIONAL TREATMENT IN FINANCIAL RELATIONS (US ARTICLE VI). IN TODAY'S MEETING, DUMITRESCU REITERATED POINT MADE MORE GENTLY DECEMBER 19 (PARA 8 BUCHAREST 5818) THAT ROMANIA DISTINGUISHES SHARPLY BETWEEN EXCHANGE CONTROLS OVER ROMANIAN INDIVIDUALS AND ENTERPRISES AND FINANCIAL NEEDS OF FOREIGN COMPANIES ENGAGED IN INTERNATIONAL TRADE. HE SAID THAT GIVING NATIONAL TREATMENT TO US FIRMS IN ROMANIA, EVEN IF WARRANTED BY US CONCESSIONS, WOULD PUT ROMANIA, EVEN IF WARRANTED BY US

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CONCESSIONS, WOULD PUT ROMANIA IN AWKWARD POSITION OF HAVING TO EXTEND SAME TREATMENT TO FIRMS FROM COUNTRIES WHICH HAVE ALREADY BEEN ASSURED MOST-FAVORED-NATION TREATMENT BUT MAY NOT HAVE OFFERED CONCESSIONS. DUMITRESCU WANTS TO LIMIT US ARTICLE VI TO MOST-FAVORED-NATION TREATMENT, WHICH WOULD CAUSE NO PROBLEM. IF THIS IS NOT SUFFICIENT, EMBASSY BELIEVES WE MAY HAVE TO CLARIFY OUR SPECIFIC NEEDS FOR NATIONAL TREATMENT DURING NEGOTIATION TO SEE WHAT COMPROMISE IS POSSIBLE

WITHIN ROMANIAN LAW, SINCE A BLANKET MERGING OF NATIONAL AND FOREIGN PRIVILEGES IN THIS AREA WOULD REQUIRE SUBSTANTIAL CHANGES IN ROMANIAN FOREIGN EXCHANGE CONTROL SYSTEM.

D. PREAMBLE. DUMITRESCU NOTED AGAIN JAN 7 THAT ROMANIA SEEKS THREE ELEMENTS IN PREAMBLE, NONE OF THEM NEW TO ROMANIA'S BILATERAL RELATIONS WITH THE US: REFERENCE TO MAJOR PRINCIPLES OF RELATIONS, MENTIONN\* MAJOR INTERNATIONAL ORGANIZATIONS TO WHICH BOTH COUNTRIES HAVE MADE IMPORTANT ECONOMIC COMMITMENTS, AND RECOGNITION OF DIFFERENCE IN LEVELS OF DEVELOPMENT BETWEEN US AND ROMANIA (SEE BUCHAREST 5818). EMBASSY STILL BELIEVES THIS LANGUAGE NEGOTIABLE, ESPECIALLY IF US WILLING TO MAKE INDIRECT REFERENCE TO SOME OF THESE POINTS, SUCH AS THROUGH REFERENCE TO JOINT STATEMENT OF DECEMBER 5, 1973. WASHINGTON MAY WISH TO CONSIDER INCLUDING REFERENCES TO GATT AND IMF/IBRD IN PREAMBLE IN VIEW OF SIGNIFICANCE OF OUR JOINT MEMBERSHIP IN THESE ORGANIZATIONS TO OUR BILATERAL RELATIONSHIP WITH ROMANIA.

E. IMPORT COMMITMENTS AND TRADE EXPANSION. DUMITRESCU REITERATED POINTS MADE PARA 3 AND 4 BUCHAREST 5818 ON JAN 7, THAT ROMANIA EXPECTED TO IMPORT MORE FROM US BUT COULD NOT MAKE A BILATERAL COMMITMENT. HE SAID ROMANIA TOOK ITS MULTILATERAL COMMITMENT TO GATT SERIOUSLY, BUT GENEVA WAS PREFERRED PLACE TO DISCUSS IT. EMBASSY BELIEVES THAT GATT COMMITMENT IS MORE IMPORTANT, AND MORE ATTAINABLE, THAN BILATERAL. TO EXTEND THAT THE TWO CONFLICT, PERHAPS GENERAL BILATERAL STATEMENT OF INTENT TO EXPAND TRADE WOULD SUFFICE.

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FM AMEMBASSY BUCHAREST

TO SECSTATE WASHDC IMMEDIATE 1333

C O Q F I D E N T I A L SECTION 2 OF 2 BUCHAREST 0054

F. RECIPROCAL TRADE CONCESSIONS. DUMITRESCU OBJECTED THAT LANGUAGE OF ARTICLE I:2, WHICH STATES THAT EACH PARTY WILL "RECIPROcate IN FULL REDUCTIONS BY THE OTHER PARTY IN TARIFFS AND NONTARIFF BARRIERS TO TRADE THAT RESULT FROM MULTILATERAL NEGOTIATIONS," JEOPARDIZES ROMANIAN HOPES FOR PREFERENTIAL TREATMENT AS LDC THAT MIGHT ARISE FROM TOKYO ROUND.

EMBASSY HOPES LANGUAGE CAN BE MODIFIED SO AS NOT TO PREJUDICE ROMANIA'S CLAIMS.

G. SAFEGUARDS AGAINST MARKET DISRUPTION. ROMANIANS HAVE NOT YET HAD OPPORTUNITY TO STUDY OUR DRAFTS OF ARTICLE III AND ANNEX 1 BUT HAVE ALREADY SERVED NOTICE THAT THEY WILL SCRUTINIZE TEXT CLOSELY SINCE THEY BELIEVE A SWEEPING SAFEGUARD CLAUSE CAN UNDERMINE INTENT OF TRADE AGREEMENT. THEY WILL PROBABLY PORTEST THAT ARTICLE III:2 ALLOWS US TOO MUCH DISCRETION AND REPEAT OFTEN-HEARD CLAIM THAT FLEDGLING ROMANIAN ECONOMY IS TOO SMALL TO POSE THREAT TO VAST US MARKET. WE HAVE ALREADY POINTED OUT THAT US INDUSTRIES WHICH MIGHT BENEFIT FROM SAFEGUARDS CLAUSE ARE IMPORT-SENSITIVE AND OFTEN NOT LARGE EVEN BY ROMANIAN STANDARDS, BUT WE SHOULD EXPECT RESISTANCE ON THIS SECTION, UNLESS WE CAN SHOW THAT IT IS CLEARLY NON-DISCRIMINATORY AND NECESSARY UNDER NEW TRADE ACT.

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